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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/611,551

06/30/2003

Susan I. Shelso

10527-794001 / 02-260

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10/23/2007

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EXAMINER

TYSON, MELANIE RUANO

ART UNIT

PAPER NUMBER

3773

MAIL DATE

DELIVERY MODE

10/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

### Application No.

10/611,551

### Applicant(s)

SHELSON, SUSAN I.

### Examiner

Melanie Tyson

### Art Unit

3773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-13, 16-24, 26, 27, 29, 30, 33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-13, 16-24, 26, 27, 29, 30, 33 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/15/07</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 15 August 2007 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-13, 22-24, 29, 30, 33, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Ravenscroft (Patent No. 5,702,418). Ravenscroft discloses a stent delivery system (see entire document) comprising a catheter having an inner shaft (31), a retractable sheath (24), at least one radiopaque grip member (for example, see column 7, lines 42-45) having a substantially tapered body region (tapered portion of 13) and a hub region (enlarged portion of 13) having an outer diameter greater than the outer diameter of the first end of the body region, and an expandable stent (20) comprising a plurality of struts disposed about the inner shaft and engaged to at least a portion of the body region, wherein during use, the stent (20) abuts the hub region, the

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hub region is positioned proximal to the stent (20), and the outer diameter of the hub region is greater than the outer diameter of the stent (20) when the stent (20) is in an unexpanded state (for example, see Figures 1, 4, 5, and illustration below).

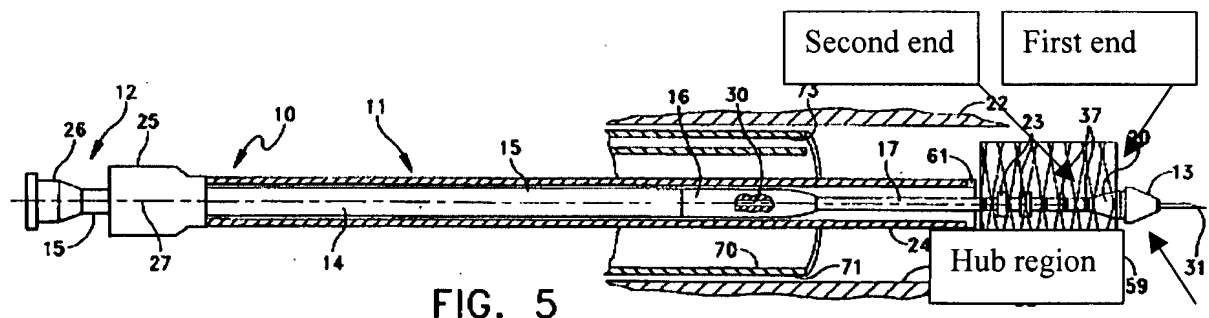


FIG. 5

With further respect to claim 13, the grip member disclosed by Ravenscroft is inherently capable of reducing the longitudinal force the catheter exerts on the struts, since the grip member reduces the potential space between the inner catheter shaft and the retractable sheath.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 16-21, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravenscroft.

Regarding claims 16-18, Applicant fails to disclose that utilizing a second grip member provides an advantage, is used for a particular purpose, or solves a stated problem over utilizing a single grip member. Applicant further discloses that a single grip member may be used in the delivery system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a second grip member, since it has been held that a mere duplication of the essential working parts involves only routine skill in the art.

Regarding claims 21, 26, and 27, it would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the grip member of a polymeric material, such as polyether block amides, since polymeric materials are well known in the art in order to reduce the risk of kinking of devices inserted into the vascular system (for example, see column 5, lines 23-30) and it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use.

With further respect to claims 19 and 20, it would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the grip with a hardness of about 60 to about 90, or of 70 to about 90, since it has been held that

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where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

### ***Response to Arguments***

6. Applicant's arguments filed 15 August 2007 have been fully considered but they are not persuasive. Applicant argues primarily that the prior art applied fails to disclose, suggest, or teach each and every element claimed. Examiner respectfully disagrees.

Applicant argues that Ravenscroft fails to disclose that the stent abuts the hub region during use. Claims in a pending application should be given their broadest reasonable interpretation. In this case, the limitations "during use, the stent abuts the hub region" and "the stent abuts the hub region when the outer sheath is retracted" have been interpreted as including a stent adjacent to the hub along one side (for example, see Encarta World English Dictionary Online – "to touch *or* be adjacent to something along one side"). Figures 1, 4, and 5 of Ravenscroft show the stent (20) abuts the hub region as claimed.


### ***Conclusion***

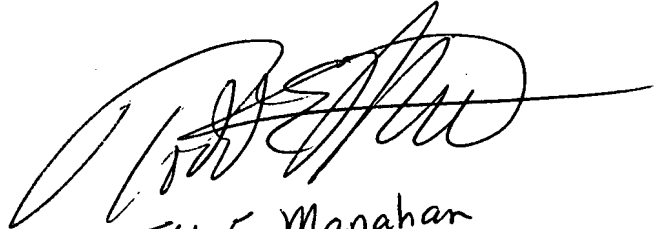
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Tyson whose telephone number is (571) 272-9062. The examiner can normally be reached on Monday through Thursday 8:30-7 (max flex).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie Tyson   
October 16, 2007

  
Todd E. Manahan  
SPE -3731